

# Dan Rather Reports

**Episode Number:** 405

**Episode Title:** The Castle Doctrine

**Description:** A new breed of laws is rapidly giving Americans more rights to use deadly force to defend themselves and their property.

**TEASE:**

MARION HAMMER, EXECUTIVE DIRECTOR OF UNIFIED SPORTSMEN OF  
FLORIDA, REPRESENTATIVE OF THE NATIONAL RIFLE ASSOCIATION IN  
FLORIDA

When you are prosecuting law-abiding people for defending themselves against criminals, it's wrong and it has to be fixed. And the Castle Doctrine laws fixed that.

SURINDER SINGH, OWNER OF THE BP STATION PROPERTY

Somebody got to stop him. The police cannot be there 24 hours. The only person who was there to stop him was the clerk. And he stopped him, whatever means he could.

GREGORY HICKS, WARREN CITY ATTORNEY

I believe in protecting one's property. I believe in the fact that your home is your castle. But I don't believe you have the right to use that kind of deadly force on a prank. I'm sorry, that's not the way an ordered society acts.

DAN RATHER (VOICE OVER)

WE'LL BRING YOU THE NEWS, TONIGHT ON DAN RATHER REPORTS.

## **THE CASTLE DOCTRINE:**

RATHER (ON CAMERA)

TO SHOOT OR NOT TO SHOOT? FOR EVEN THE MOST SEASONED POLICE OFFICER, IT'S THE ULTIMATE DILEMMA. A SPLIT-SECOND CHOICE THAT COULD PREVENT A VIOLENT CRIME, OR BE A FATAL MISTAKE. BUT IT'S NO LONGER JUST POLICE WHO ARE DECIDING WHETHER OR NOT TO PULL THE TRIGGER. THERE'S A NEW BREED OF LAWS THAT'S EXPANDING THE RIGHTS OF CIVILIANS TO USE DEADLY FORCE. THEY ARE CALLED THE "CASTLE DOCTRINE" LAWS AND SINCE 2005, THEY'VE BEEN PASSED OR PROPOSED IN MORE THAN 35 STATES. THE NEW LAWS ARE NOT ABOUT THE RIGHT TO BEAR ARMS, BUT THE RIGHT TO USE THEM. THE NATIONAL RIFLE ASSOCIATION SAYS THE CASTLE DOCTRINE IS RESTORING A TRADITION OF SELF-DEFENSE THAT DATES BACK TO MEDIEVAL ENGLAND, WHEN A MAN'S HOME WAS CONSIDERED HIS CASTLE. BUT OTHERS SAY THESE LAWS ARE USHERING IN A VIOLENT NEW ERA WHERE CIVILIANS MAY HAVE MORE FREEDOM TO USE DEADLY FORCE THAN EVEN THE POLICE. ARE THESE NEW CASTLE DOCTRINE LAWS A RIGHT TO DEFEND OR A LICENSE TO KILL? A SHOOTING IN TEXAS IN LATE 2007 THRUST THAT QUESTION INTO THE NATIONAL SPOTLIGHT.

DAN RATHER (VOICE OVER)

PASADENA, TEXAS, IS IN THE HEART OF OIL COUNTRY ABOUT A HALF HOUR SOUTHEAST OF HOUSTON. IT'S MOSTLY A BLUE COLLAR TOWN WHERE REFINERIES AND CHEMICAL PLANTS LOOM OVER THE HORIZON. IN THIS UPSCALE SUBDIVISION, TWO SUSPECTED BURGLARS WOULD LOSE THEIR LIVES. WHETHER THE KILLINGS WERE ACTS OF SELF-DEFENSE OR MURDER, DEPENDS ON YOUR POINT OF VIEW.

JOE HORN (POLICE VIDEO)

There was two of them, officer, there was only one of me. I am not physically - ain't, no way I coulda handled them, ok?

RATHER (VOICE OVER)

THIS IS POLICE VIDEO OF JOE HORN, JUST HOURS AFTER THE 62-YEAR-OLD RETIRED COMPUTER CONSULTANT SHOT TWO MEN FROM THE FRONT YARD OF HIS HOUSE.

HORN (POLICE VIDEO)

I shot 'em, ok. I'm not denying that. I did not come out here with no intent to shoot anybody.

RATHER (VOICE OVER)

HORN SAID THAT HE OPENED FIRE OUT OF FEAR FOR HIS LIFE.

HORN (POLICE VIDEO)

I thought I'd been scared in my life but I'd never been scared like this, I aint' ever been scared like this.

RATHER (VOICE OVER)

BUT HORN'S TONE WAS QUITE DIFFERENT A FEW HOURS EARLIER WHEN HE CALLED 911, A CONVERSATION THAT HAS BECOME A FLASH POINT IN THE CONTROVERSY.

911 OPERATOR (FROM 911 RECORDING)

Pasadena 911. What is your emergency?

HORN (FROM 911 RECORDING)

Uh, burglars breaking into a house next door. Uh, I've got a shotgun. Uh, do you want me to stop 'em?

911 OPERATOR (FROM 911 RECORDING)

Nope. Don't do that. Ain't no property worth shooting somebody over, OK?

RATHER (VOICE OVER)

FOR THE NEXT SIX MINUTES, THE DISPATCHER TRIES TO CALM HORN DOWN.

911 OPERATOR (FROM 911 RECORDING)

Stay on the phone with me until we get someone right over there. OK? Don't hang up.

HORN (FROM 911 RECORDING)

I'm not hanging up. But I'm telling you right now I don't like this kind of stuff. Man this is ridiculous. Broad daylight.

911 OPERATOR (FROM 911 RECORDING)

I've got officers coming out there. I don't want you to go outside that house and I don't want you to have that gun in your hand when those officers are poking around over there.

HORN (FROM 911 RECORDING)

I understand that. OK, but I have a right to protect myself, too sir.

911 OPERATOR (FROM 911 RECORDING)

Yes, you do.

HORN (FROM 911 RECORDING)

And you understand that and the laws have been changed in this country since September the first, and you know it and I know it. I have a right to protect myself.

RATHER (VOICE OVER)

TEXAS'S NEW CASTLE DOCTRINE LAW, WHICH HAD BEEN ON THE BOOKS FOR JUST TEN WEEKS, EXPANDED CIVILIANS' RIGHTS TO USE LETHAL FORCE TO PROTECT HOME AND PROPERTY. STILL, THE POLICE DISPATCHER TELLS HORN TO STAY INSIDE AND WAIT FOR POLICE.

HORN (FROM 911 RECORDING)

God Dammit --they just stole something. I'm going out the window. I'm sorry. I-

911 OPERATOR (FROM 911 RECORDING)

Don't go outside. Don't go outside the house.

HORN (FROM 911 RECORDING)

I ain't going to let them get away with this shit. They stole something. They've got a bag of something.

911 OPERATOR (FROM 911 RECORDING)

You're going to get yourself shot if you go outside that house with that gun. I don't care what you think. Stay in the house.

HORN (FROM 911 RECORDING)

You wanna make a bet? I'm gonna kill 'em

RATHER (VOICE OVER)

MINUTES PASS, AND THE DISPATCHER CONTINUES TO DISTRACT HORN.

HORN (FROM 911 RECORDING)

They've got a bag of loot.

911 OPERATOR (FROM 911 RECORDING)

OK. How big is the bag? They're carrying a bag of stuff, they're walking out. Which way are they going?

HORN (FROM 911 RECORDING)

Can't. I'm going outside. I'll find out.

911 OPERATOR (FROM 911 RECORDING)

No, I don't want you going outside, Mr. Horn.

HORN (FROM 911 RECORDING)

Well, here it goes buddy. You hear the shotgun clicking and I'm going.

911 OPERATOR (FROM 911 RECORDING)

Don't go outside.

HORN (FROM 911 RECORDING)

Move -- you're dead.

RATHER (VOICE OVER)

BOTH THIRTY-EIGHT YEAR OLD HERNANDO RIASCOS TORRES AND THIRTY YEAR OLD DIEGO ORTIZ WERE SHOT IN THE BACK AND DIED OF THEIR WOUNDS. THE TWO MEN, POLICE SAID, WERE COLOMBIANS IN THE COUNTRY ILLEGALLY AND WERE FOUND WITH CASH AND JEWELRY STOLEN FROM THE NEIGHBOR'S HOUSE. OVERNIGHT -- IN PASADENA AND ACROSS THE COUNTY - HORN WAS HAILED AS A HERO AND DECRIED AS A COLD-BLOODED KILLER. TIMBERLINE DRIVE WAS FLOODED WITH PROTESTERS AND CAMERA CREWS. VIDEOS OF NEWS COVERAGE POSTED ON YOU-TUBE HAVE BEEN VIEWED THOUSANDS OF TIMES, WITH HUNDREDS OF COMMENTS. JOE HORN WEBSITES AND BLOGS SPROUTED UP - ON ALL SIDES OF THE ISSUE.

PASADENA POLICE OFFICER (POLICE VIDEO)

At this point, where's your shotgun at?

HORN (POLICE VIDEO)

I got it here.

RATHER (VOICE OVER)

MEANWHILE, THE INVESTIGATION CONTINUED INTO WHETHER HORN WAS JUSTIFIED IN SHOOTING THE BURGLARS.

HORN (POLICE VIDEO)

I had 911...they hung up and I called them back. I tried to do everything to avoid a situation like this, ok but I thought I could get a license number or something, ok that was my intent.

RATHER (VOICE OVER)

POLICE AND THE LOCAL PROSECUTOR WERE NOT CONVINCED THE SHOOTING FELL UNDER THE NEW CASTLE DOCTRINE LAW. EVEN THE STATE SENATOR WHO WROTE THE LAW TOLD THE LOCAL PRESS QUOTE "IT COMES FROM THE SAYING, 'A MAN'S HOME IS CASTLE'.... BUT THIS WASN'T HIS CASTLE." BUT ULTIMATELY – HORN WAS VINDICATED BY THE PEOPLE. ON JUNE 30, 2008 A HARRIS COUNTY GRAND JURY REFUSED TO INDICT JOE HORN. HE WALKED AWAY A FREE MAN.

RATHER (ON CAMERA)

JOE HORN WAS BIG NEWS FOR A WHILE AND THEN THE MEDIA MOVED ON. BUT THE CASE WAS JUST ONE EXAMPLE OF A SEA CHANGE IN HOW CIVILIANS ARE DEFENDING THEIR LIVES AND THEIR PROPERTY. OVER THE LAST TEN YEARS, THE MARKET FOR GUNS AND AMMUNITION HAS GROWN MORE THAN 50 PERCENT. THE FBI SAYS BACKGROUND CHECKS FOR FIREARMS ARE SOARING AND JUSTIFIABLE HOMICIDE CASES ARE REACHING THEIR HIGHEST LEVEL IN OVER A DECADE. LAST SUMMER, THE U.S. SUPREME COURT ISSUED A HISTORIC OPINION BOLSTERING THE CONSTITUTIONAL RIGHT TO BEAR ARMS. AT THE SAME TIME, STATES HOUSES ACROSS THE COUNTRY HAVE BEEN PASSING A SLEW OF NEW GUN LAWS, AND NONE OF THEM HAS TAKEN HOLD MORE QUICKLY THAN THE CASTLE DOCTRINE LAWS. WHERE DID THIS ALL BEGIN? LIKE SO MANY GOOD STORIES, THIS ONE STARTS WITH A GIRL AND A GUN.

RATHER (VOICE OVER)

THE SCENE: A LATE NIGHT ENCOUNTER IN THIS PARKING GARAGE IN DOWNTOWN TALLAHASSEE, TWENTY-FIVE YEARS AGO.

MARION HAMMER, EXECUTIVE DIRECTOR OF UNIFIED SPORTSMEN OF FLORIDA, REPRESENTATIVE OF THE NATIONAL RIFLE ASSOCIATION IN FLORIDA

One of the guys leaned out of the back window of the car, the backseat, had a long-neck beer bottle in his hand and proceeded to tell me what he was gonna do with it when they caught me.

RATHER (VOICE OVER)

MARION HAMMER SAYS SHE WAS WALKING TO HER CAR AFTER A LONG DAY AT THE OFFICE WHEN SHE WAS ACCOSTED BY A CAR FULL OF MEN. BUT SHE HAD A SURPRISE FOR THEM.

HAMMER

I stepped behind a big column and reached in my purse and pulled out my gun. And I stepped out and I drew the gun up through the headlights of the car, and I aimed at the driver. And somebody in the car screamed, "The bitch got a gun!"

RATHER

THE 69-YEAR OLD GRANDMOTHER, WHO STANDS ABOUT 4'11", SAYS THE GUN IS THE ONLY THING THAT SAVED HER THAT NIGHT. BUT A FEW WEEKS LATER, DURING AN APPEARANCE WITH THE LOCAL POLICE CHIEF ON A TV TALK SHOW, SHE LEARNED IT ALSO COULD'VE GOTTEN HER INTO TROUBLE.

HAMMER

The police chief told me, "Well, in that situation, if you'd called the police, we'd have arrested you, because you were the only one who employed the use of deadly force." And that made me angry, because a 2000-pound car and six drunk men, and they would have arrested me? When you are prosecuting law-abiding people for defending themselves against criminals, it's wrong and it has to be fixed. And the Castle Doctrine laws fixed that.

RATHER (VOICE OVER)

AS IT HAPPENS, FIXING LAWS IS WHAT MARION HAMMER DOES BEST.

NARRATOR, NRA PROMOTIONAL VIDEO

Single-handedly she mounted a massive grassroots response.



RATHER (VOICE OVER)

IN 1995, SHE BECAME THE FIRST WOMAN PRESIDENT OF THE NATIONAL RIFLE ASSOCIATION, AS SHOWN HERE IN THIS PROMOTIONAL PROFILE. AFTER 30 YEARS WORKING FLORIDA'S CAPITAL, SHE'S REGARDED BY CRITICS AND ADMIRERS ALIKE AS A VIRTUALLY UNSTOPPABLE FORCE.

NARRATOR, NRA PROMOTIONAL VIDEO

And with the true skill of a marksman, shot down bill after bill.

RATHER (VOICE OVER)

IN 1987, HAMMER PASSED FLORIDA'S MODEL "RIGHT TO CARRY" LAW, ALLOWING CIVILIANS TO CARRY CONCEALED WEAPONS IN PUBLIC. BUT THE PARKING LOT ENCOUNTER MADE HAMMER REALIZE STAYING SAFE WAS NOT JUST ABOUT A RIGHT TO CARRY BUT ALSO ABOUT A RIGHT TO SELF-DEFENSE. SHE SAYS THAT RIGHT WAS BEING UNDERMINED BY A PROVISION IN FLORIDA LAW THAT SAID PEOPLE ATTACKED IN PUBLIC HAD A "DUTY TO RETREAT" -- IN OTHER WORDS, THEY MUST TRY TO ESCAPE BEFORE RESORTING TO DEADLY FORCE.

HAMMER

Through time, in this country, what I like to call bleeding heart criminal coddlers want you to give a criminal an even break, so that when you're attacked, you're supposed to turn around and run, rather than standing your ground and protecting yourself and your family and your property. Started thinking then, that the day will come when we will have to do some serious thinking about changing this. And that time came.

RATHER (VOICE OVER)

THAT TIME WAS 2005, AS FLORIDA WAS RECOVERING FROM A SERIES OF BRUTAL HURRICANE SEASONS.

HAMMER

In a lot of these devastated areas, law enforcement would tell communities, "You're on your own, we can't get to you." So, we needed to be sure that when people protected themselves, their families and their property, that they weren't gonna be prosecuted by some criminal-coddling prosecutor.

RATHER (VOICE OVER)

HAMMER APPROACHED FLORIDA LAWMAKERS WITH THE BILL THAT WOULD BECOME THE NATION'S FIRST CASTLE DOCTRINE LAW.

HAMMER

People said, "Well, we already have those rights." I said, "Well, no, you don't." You think you do, but look at case law, read the newspaper, look at what's happening. And people'd say, "Well, when did this happen." It's like a creeping cancer that takes away your rights. You have a duty to retreat. The castle doctrine law sailed through the Florida legislature.

RATHER (VOICE OVER)

THE LAW SAID CIVILIANS COULD SHOOT ATTACKERS WITHOUT TRYING TO ESCAPE FIRST AND ALSO REQUIRED LAW ENFORCEMENT TO PRESUME THAT SHOOTERS ACTED OUT OF FEAR FOR THEIR LIVES. THERE WAS OPPOSITION FROM PROSECUTORS AND CRITICS DUBBED IT THE "SHOOT FIRST LAW." GUN CONTROL ADVOCATES -- LIKE ARTHUR HAYHOE -- TOLD THE PRESS THE LAW WAS DANGEROUS.

ARTHUR HAYHOE, FLORIDA COALITION TO STOP GUN VIOLENCE

When you embolden gun owners to act, you need to do it carefully. This is not a careful bill.

RATHER (VOICE OVER)

BUT HAMMER'S VICTORY WAS DECISIVE. THE CASTLE DOCTRINE LAW PASSED THE FLORIDA HOUSE BY A NEARLY FIVE TO ONE MARGIN, IN THE SENATE THERE WAS NOT A SINGLE DISSENT. THE NRA'S EXECUTIVE VICE PRESIDENT, WAYNE LA PIERRE, SAID FLORIDA WOULD BE JUST THE BEGINNING.

WAYNE LA PIERRE, NRA EXECUTIVE VICE PRESIDENT, IN NRA PROMOTIONAL  
VIDEO

I think this bill is going to sweep the country because people want to be able to protect themselves and they don't want to be second guessed about what action they take at the scene of a crime.

RATHER (VOICE OVER)

THAT PREDICTION PROVED PROPHETIC. THE NRA SAYS IT'S HELPED PASS CASTLE DOCTRINE LAWS IN AT LEAST 23 STATES SO FAR. AND THAT NUMBER IS LIKELY TO GROW.

RATHER (ON CAMERA)

NOW, WHEN WE RETURN, WE'LL TAKE YOU TO JACKSON, MISSISSIPPI AND GIVE YOU A LOOK AT HOW THE CASTLE DOCTRINE LAW IS PLAYING OUT ON THE STREETS. AND THEN LATER IN THIS PROGRAM, MORE OF OUR DISCUSSION WITH MARION HAMMER OF THE NRA. SO STAY HERE WITH US.

RATHER (ON CAMERA)

WE'RE TALKING TONIGHT ABOUT THE CASTLE DOCTRINE AND THE NEW BREED OF LAWS THAT'S EXPANDING THE RIGHTS OF CIVILIANS TO USE DEADLY FORCE IN SELF-DEFENSE AND DEFENSE OF PROPERTY. FLORIDA PIONEERED THESE LAWS, BUT THEY'VE TAKEN HOLD AROUND THE COUNTRY. AND PERHAPS NOWHERE HAS THE CASTLE DOCTRINE BEEN TESTED MORE THAN JACKSON, MISSISSIPPI.

DAN RATHER (VOICE OVER)

IT WAS JUST AFTER TEN ON A HOT MISSISSIPPI NIGHT LAST AUGUST, AT A GAS MART ON THE OUTSKIRTS OF JACKSON. A MAN IN A BLACK SUV PULLED INTO THE LOT, WALKED INSIDE, GRABBED A CASE OF BEER FROM THE COOLER AND WALKED RIGHT OUT THE DOOR. WITHOUT PAYING. A SINGLE CASE OF BEER WASN'T GOING TO BREAK THE BANK, BUT ACCORDING TO THE PROPERTY OWNER, MR SURINDER SINGH -- WHO OPERATES SEVERAL SISTER STORES NEARBY -- THE MAN WAS JUST THE LATEST OF A SEEMINGLY ENDLESS STREAM OF THIEVES.

SURINDER SINGH, OWNER OF THE BP STATION PROPERTY

They come, they take stuff...By the time we call the police they are already gone. And they know that. So when -- when the police come, they say, "Well, call us if they come back."

RATHER (VOICE OVER)

BUT THE CLERK MANNING THE COUNTER THAT NIGHT WASN'T WILLING TO WAIT FOR ANYONE TO COME BACK. ACCORDING TO POLICE, HE RAN OUTSIDE WITH A .357 MAGNUM, AIMED AT THE MAN IN THE BLACK SUV, AND FIRED THREE SHOTS.

SINGH

Somebody got to stop him. The police cannot be there 24 hours. The only person who was there to stop him was the clerk. And he stopped him, whatever means he could.

RATHER (VOICE OVER)

THIRTY-SIX YEAR OLD JAMES HAWTHORNE JR WAS PRONOUNCED DEAD AT THE HOSPITAL. JUST A FEW NIGHTS LATER, ANOTHER SHOOTING AT A GAS MART A FEW MILES AWAY - POLICE SAY A MAN IN A CLOWN-MASK BURST THROUGH THE DOOR WAVING A GUN, DEMANDING MONEY FROM THE REGISTER. IT WAS THE THIRD TIME IN RECENT WEEKS THE STORE WAS ROBBED BY A MAN IN A CLOWN MASK, AS CAPTURED ON THIS SURVEILLANCE VIDEO. BUT WHEN THE MASKED-MAN RAN OUT WITH THE CASH, THIS TIME THE CLERK DIDN'T LET HIM GET AWAY.

REPORTER, WJTV LIVE BROADCAST

"The clerk went after him and shot him outside the store..."

DAN RATHER (VOICE OVER)

TEN ROUNDS, ACCORDING TO THE POLICE REPORT. TWENTY-THREE YEAR OLD TERRENCE PRIOR WAS PRONOUNCED DEAD AT THE HOSPITAL.

REPORTER, WJTV LIVE BROADCAST

Store clerk shooting is our big story at five.

DAN RATHER (VOICE OVER)

ONE WEEK: TWO ROBBERIES, TWO SUSPECTED THIEVES SHOT FROM BEHIND, TWO CLERKS SAYING THE CASTLE DOCTRINE GAVE THEM THE RIGHT TO USE DEADLY FORCE. BUT IS IT OR IS IT NOT SELF-DEFENSE TO SHOOT A FLEEING FELON? IS IT LEGAL TO SHOOT A MAN FOR STEALING A CASE OF BEER?

MALCOLM McMILLIN, JACKSON POLICE CHIEF AND HINDS COUNTY SHERIFF

The punishment just doesn't fit the crime.

RATHER (VOICE-OVER)

MALCOLM MCMILLIN IS AN OLD-FASHIONED LAW AND ORDER POLICE CHIEF WHO ALSO WEARS THE BADGE OF COUNTY SHERIFF. JACKSON IS THE KIND OF TOWN THAT NEEDS ALL THE LAW AND ORDER IT CAN GET. CHIEF MCMILLIN SAYS CITIZENS HAVE A RIGHT TO PROTECT THEIR PROPERTY, BUT HE SAYS THE CASTLE DOCTRINE LAW MAY BE MAKING PEOPLE TOO QUICK ON THE DRAW.

MCMILLIN

I, as a police officer, have been told for-- ever since I've been on the department, that you can't shoot a fleeing felon. You come up on a burglar, and he flees the building and he's trying to get away, you don't have that right to shoot him.

RATHER (VOICE-OVER)

BUT WHETHER CIVILIANS HAVE THAT RIGHT HAS BEEN AN OPEN QUESTION SINCE 2006, WHEN THE MISSISSIPPI LEGISLATURE PASSED THE CASTLE DOCTRINE. HERE IN JACKSON THE CONSENSUS ON THE NEW LAW CAN BE SUMMED UP IN THIS HEADLINE: CONFUSION. THESE DAYS, IT SEEMS NO ONE IS EXACTLY SURE WHO CAN SHOOT WHOM, WHEN OR FOR WHAT.

MCMILLIN

The Castle Doctrine, I think, has good points. And I know what it was meant to do. The thing that I'm concerned about is people have a misconception of what they can or can't do. And I think that unless that's-- you know, that's made clear, then I think we're just gonna have-- we're gonna have other examples of this.

DAN RATHER (VOICE OVER)

IN JACKSON, POLICE AND NEWS REPORTS INDICATE THE NEW CASTLE DOCTRINE HAS ALREADY BEEN INVOKED BY AT LEAST 14 CIVILIANS WHO USED DEADLY FORCE -- FROM TENANTS IN HOUSES TO BUSINESS OWNERS TO STORE CLERKS. MANY OF THEIR TARGETS WERE UNARMED OR FLEEING, OR BOTH. SEVEN OF THEM WERE KILLED. BUT ONLY MR. SABRINDER PANNU, THE CLERK WHO KILLED THE BEER SHOPLIFTER, HAS BEEN CHARGED WITH MURDER. JACKSON IS THE CAPITOL OF THE GREAT STATE OF MISSISSIPPI. RAILROADS ONCE MADE IT A COMMERCIAL HUB OF THE SOUTH. RELICS OF THE OLD GRANDUER -- AND THE OLD BATTLES -- STILL REMAIN. TODAY, IN MANY PLACES, THIS ONCE BUSTLING CAPITOL IS CRUMBLING AND LIFELESS. MUCH OF THE LOCAL ECONOMY -- AND THE TAX BASE -- HAS RECEDED INTO THE SUBURBS. PEOPLE SAY JACKSON'S MAJOR INDUSTRY NOW IS CRIME. TAKE A RIDE WITH JACKSON POLICE EVEN ON A QUIET NIGHT AND YOU'LL SEE A PLACE AWASH IN DRUGS AND CRIME. LAST YEAR, HOMICIDES WERE UP MORE THAN 30 PERCENT FROM 2007. AND GUNS ARE EVERYWHERE. A SPONTANEOUS STING AT THIS GAS STATION TURNS UP THREE SUSPECTS AND THREE PISTOLS.

JACKSON POLICE SGT. BRADY HIGHTOWER

Y'all got plenty of guns, what are you going to war..."

RATHER (VOICE OVER)

NONE OF THE SUSPECTS WILL BE GOING HOME TONIGHT. THEIR GUNS WILL BE TAGGED, BAGGED AND ADDED TO THE POLICE DEPARMENT'S EVER-GROWING COLLECTION OF CONFISCATED WEAPONS.

JACKSON POLICE OFFICER #1

We had bad week, we had a real bad week.

JACKSON POLICE OFFICER #2

Three felony warrants, one aggravated assault, one felon with a firearm.

JACKSON POLICE OFFICER #3

A thousand pounds of methamphetamines, nineteen pounds of heroin...

RATHER (VOICE OVER)

CHIEF MCMILLIN SAYS HE'S WAGING A BATTLE OF ATTRITION WITH A FORCE THAT'S NEARLY 200 OFFICERS SHORT OF THE 600 THE CITY NEEDS. SO HE SAYS IT'S NO WONDER THAT CIVILIANS ARE TAKING UP THE FIGHT AND USING TOOLS LIKE THE CASTLE DOCTRINE TO HELP PROTECT THEMSELVES.

MCMILLIN

People are sick and tired of being victims. They're tired of being robbed. They're tired of their houses being broken into. They think that they have to take matter into their own hands if they're gonna be safe.

RATHER (VOICE OVER)

THE PEOPLE OF THE PARKWAY NEIGHBORHOOD HELD THIS ANTI-CRIME RALLY AFTER THEIR ELDERLY NEIGHBOR WAS SHOT IN THE HEAD WITH HER OWN GUN BY A HOUSE BURGLAR.

ETTA MAE BARNETT, LONGTIME RESIDENT OF JACKSON

The bullet is still lodged between the lobes of her brain...

RATHER (VOICE OVER)

FOR ETTA MAE BARNETT, WHO'S LIVED IN THE NEIGHBORHOOD FOR 42 YEARS, IT WAS A WAKE-UP CALL TO TAKE A LOOK AT HER OWN HOME SECURITY.

BARNETT

I have a have a .38 I don't have to get the safety off, I just pull the trigger.

RATHER (VOICE OVER)

IN JACKSON, SECURITY IS ON THE MINDS OF ALL SORTS OF PEOPLE YOU MIGHT NOT EXPECT.

TERRICA ADAMS, JACKSON STATE UNIVERSITY STUDENT

I just put that forbid unlawful methods of terrorism.

RATHER (VOICE OVER)

TERRICA ADAMS IS A PRE-LAW MAJOR AT JACKSON STATE UNIVERSITY...

ADAMS

My sorority sisters.

RATHER (VOICE OVER)

...AND A PROUD ALPHA KAPPA ALPHA. SHE SAYS AFTER GRADUATION SHE HOPES TO DANCE PROFESSIONALLY, MAYBE AS A CHEERLEADER FOR THE DALLAS COWBOYS. BUT RIGHT NOW, THE TWENTY-ONE-YEAR OLD SENIOR IS FOCUSED ON OTHER THINGS.

ADAMS

Little African faces and the whatnots....

RATHER (VOICE OVER)

LIKE DECORATING HER FIRST APARTMENT - AND STAYING SAFE.



ADAMS

If you're 5'3" and 120 pounds like me, you know, you can't really protect yourself with self-defense alone.

DAN RATHER (VOICE OVER)

SO TERRICA SIGNED UP FOR SHOOTING LESSONS.

CLIFF CARGILL, NRA FIREARMS INSTRUCTOR

Look at your very first shot in the center of the orange. That was a good shot, right there.

ADAMS

I chose my Smith & Wesson because it's very concealable so I can keep in my glove compartment, I can put it in my purse.

DAN RATHER (VOICE OVER)

ARMED WITH HER PISTOL AND THE NEW CASTLE DOCTRINE LAW, TERRICA SAYS SHE FEELS MUCH SAFER.

ADAMS

It gives you the right to shoot at a criminal if they're breaking into your house you have the right to defend yourself. So I think it's a great doctrine.

DAN RATHER (VOICE OVER)

IT'S A COMMON REFRAIN AT THE MAGNOLIA RIFLE & PISTOL CLUB.

KATHY ADKINS, LOCAL REALTOR

I think the Castle Doctrine law was a Godsend for the state of Mississippi.

RATHER (VOICE OVER)

KATHY ADKINS IS A LOCAL REALTOR WHO SOMETIMES SHARES SHOOTING LESSONS WITH TERRICA.

ADKINS

The last thing I want to ever do is take someone else's life. However I do believe that there is a need now with shortage of police and the rise in crime that there are going to be situations that victims are going be- they're gonna lose their lives if they don't have the opportunity to fight back. Prior to its passing, I'm certain that if someone were to have tried to enter my home at some point, I would have thought twice about trying to protect my life because I would have been concerned about the liability involved with that. The Castle Doctrine's removed that fear.

CARGILL, NRA FIREARMS INSTRUCTOR

We did not have the presumption of innocence -- in the eyes of the law before the Castle Doctrine.

RATHER (VOICE OVER)

CLIFF CARGILL IS A FIREARMS INSTRUCTOR CERTIFIED BY THE NATIONAL RIFLE ASSOCIATION.

CARGILL

Alright, let's assume the isosceles stance.

RATHER (VOICE OVER)

HE SAYS BUSINESS HAS BEEN BOOMING WITH JACKSON'S CRIME ON THE RISE AND THE NEW LAWS ON THE BOOKS.

CARGILL

If I'm in my home, my place of business or my vehicle, I don't have to justify my existence in my surroundings. If somebody breaks into my house to rob and/or do me harm, then I should be presumed innocent by anybody that comes to investigate that situation.

ADAMS

Stand by.

RATHER (VOICE OVER)

CARGILL SAYS PACKING HEAT IS NOT PARANOIA, BUT COMMON SENSE.

CARGILL

There's an old saying, "When seconds count, the police are only minutes away."...Well the meantime, the clock's running. What's that intruder doing to you?

RATHER (VOICE OVER)

THAT'S ESPECIALLY TRUE IN JACKSON, WHERE LOCALS SAY THE POLICE ARE BADLY OUT-GUNNED.

CARGILL

The only difference between me as a law-abiding citizen that pays their salary with my taxes, is they have a badge that says it's okay for them to protect them and their family and I think citizens just want that same right.

RATHER (VOICE OVER)

JACKSON POLICE CHIEF MALCOLM MCMILLIN SAYS HE UNDERSTANDS THE PUBLIC ANXIETY OVER CRIME, BUT HE BELIEVES, IN A CIVILIZED SOCIETY, IT IS THE POLICE WHO MUST IMPOSE LAW AND ORDER.

MCMILLIN

People are at the stage now where they don't feel that the police can protect them. That they have to do more. And that there's a general feeling of-- insecurity. And it's not just here. I think that it applies everywhere.

RATHER

You know I'm a Texan. And it at least used to be sort of popular to say, "God made us free. But Colt made us equal." Short way of saying I'm gonna pack. I'm gonna pack a gun. I'm gonna have a gun in my house and if you could be trouble, then I might be able to blow your arse off.

MCMILLIN

I don't have to be a Texan to believe that, do I?

RATHER

No.

MCMILLIN

Okay, 'cause then we definitely agree on that. Don't come into my home and threaten me with bodily harm and put me in fear of my life 'cause I'm where I'm supposed to be.

RATHER (VOICE OVER)

BUT THE CHIEF SAYS THE CASTLE LAW DOES NOT GIVE CIVILIANS A FREE PASS TO OPEN FIRE AND HE CITES THE TWO CONVENIENCE STORE SLAYINGS IN AUGUST AS PROOF. THE POLICE DECIDED THAT IN THE CASE OF THE ARMED ROBBERY -- A FELONY -- SHOOTING WAS JUSTIFIABLE UNDER THE CASTLE DOCTRINE LAW. BUT IN THE CASE OF THE SHOPLIFTED BEER -- A MISDEMEANOR -- IT WAS MURDER.

RATHER

Why? Why the difference?

MCMILLIN

Well, I don't think that the-- that the Castle Law was designed or written to make the-- to make shopliftin' a crime that was punishable by the death penalty.

RATHER

Are you saying or not that people don't have a right-- they don't have an inherent right in the law to stop criminals from stealing from them?

MCMILLIN

I'm sayin' the law specifies a felony committed upon 'em. Not a misdemeanor. So, I think we have to draw the line somewhere. We're not going to kill people, we're not going to shoot people over a case of beer.

RATHER (VOICE-OVER)

BUT MR. SINGH DOESN'T SEE ANY REAL DISTINCTION. HE POINTS OUT BOTH SUSPECTS WERE CRIMINALS AND BOTH WERE SHOT FROM BEHIND AS THEY WERE FLEEING.

SINGH

What's the difference? They will argue that this person didn't have a gun. How would you know that person don't have a gun? Do we ask them? Mr. Robber, sir, do you carry any gun with you?

RATHER (VOICE OVER)

AND THE ROBBERS CAME AGAIN AND AGAIN -- POLICE RECORDS SHOW 30 CALLS FROM THAT ONE STORE SINCE 2007. THE CASTLE DOCTRINE, ACCORDING TO MR SINGH, GAVE CIVILIANS THE RIGHT TO STOP THE THIEVES - - WHETHER THEY'RE TAKING CASH FROM THE REGISTER OR A CASE OF BEER.

SINGH

This is our castle. This is our bread and butter. Just like in a house, this is our property. You got to do whatever you can to protect it.

RATHER (VOICE OVER)

ACCORDING TO THE LOCAL NEWS, THE PUBLIC SEEMS TO BE WITH MR. PANNU.

REPORTER, WLBT LIVE BROADCAST

And in tonight's web poll we asked, "Do you think the store clerk went too far in protecting his merchandise?" 13 percent of you voted 'Yes,' 86 percent voted 'No,' and one percent...

RATHER (VOICE OVER)

ONE PERSON WHO THINKS THE CLERK DID GO TOO FAR IS KIMBERLY ROBINSON.

KIMBERLY ROBINSON, JAMES HAWTHORNE'S SISTER

He need to serve time for murdering my brother. I mean, he murdered him.

RATHER (VOICE OVER)

JAMES HAWTHORNE'S FAMILY SAYS TAKING THE BEER THAT NIGHT WAS A MISTAKE. IT WAS NOT HIS FIRST. HAWTHORNE HAD A CRIMINAL RECORD. BUT THEY SAY THEY BELIEVE HIS WRONGDOINGS WERE FOR THE COURTS TO JUDGE - NOT. MR. PANNU.

KIMBERLY ROBINSON

I would tell Mr. Pannu that-- we live in an American society based on the Constitution where every man has-- is innocent until proven guilty. And that that is done in a court of law, a court of justice. And what he did was vigilante justice to me because he took the law into his own hand.

RENEA PRIOR, MOTHER OF TERRENCE PRIOR

The Castle Law is, to me, it's something that really needs to be done away with.

RATHER (VOICE OVER)

RENEA PRIOR SAYS HER SON TERRENCE --THE MAN BEHIND THE MASK IN THE OTHER CONVENIENCE STORE SHOOTING -- WAS ALSO A VICTIM OF VIGILANTE JUSTICE. BUT IN THIS CASE, THE JACKSON POLICE DISAGREED. THEY HAVE NEITHER ARRESTED, NOR RELEASED THE NAME OF THE CLERK WHO KILLED TERRENCE.

PRIOR

My son was wrong for what he did. And that's go in and rob that store. And that person was wrong for what he did when he followed him out and chased him down and shot him. I understand what he did was wrong. But two wrongs do not make no right. None whatsoever.

RATHER

So, take us to school. What can you do under the Castle Law and Doctrine? And what can't you do? Let's have an understanding.

MCMILLIN

I think that that's a- exactly what we're asking for. We want the attorney general—to give us a definitive statement on-- on what it says. What you can or can't do under the Castle Law. If I took a poll in the department and gave an examination I'm not sure everybody could pass.

RATHER

You think people are confused about this?

MCMILLIN

I think definitely they are.

RATHER

Fair to say you're a bit confused yourself?

MCMILLIN

I think maybe some lawyers could understand it. But, I have a little more difficulty with it.

RATHER (VOICE OVER)

TO TRY TO SORT OUT THE CONFUSION WE WENT TO TALK TO THE HIGHEST LAWYER IN THE STATE, MISSISSIPPI ATTORNEY GENERAL JIM HOOD. ATTORNEY GENERAL HOOD IS A MAN WHO LOVES LAW AND ORDER AND LOVES GUNS. WE ASKED HIM ABOUT THE CASTLE DOCTRINE LAW AT A SKEET RANGE IN THE PINE GROVES OUTSIDE OF JACKSON.

JIM HOOD, MISSISSIPPI ATTORNEY GENERAL

In Mississippi, you grow up with the right to carry a gun. I would never support anything that takes away your right to carry a firearm, period.

RATHER (VOICE OVER)

AFTER WINNING A LANDSLIDE RE-ELECTION VICTORY IN 2007, HOOD BECAME THE ONLY DEMOCRAT ELECTED TO STATEWIDE OFFICE, AND THE MOST POPULAR POLITICIAN IN MISSISSIPPI. HE PARTNERS WITH THE NATIONAL RIFLE ASSOCIATION TO TEACH SELF-DEFENSE. BUT HE PARTS COMPANY WHEN IT COMES TO THE NEW CASTLE DOCTRINE LAW.

HOOD

Our law already on self-defense was good in Mississippi. I mean I put a 100 juries in the box and I've tried a lot of cases where self-defense was an issue and it wasn't a problem. So there's an old saying in the South, "If it ain't broke don't fix it."

RATHER (VOICE OVER)

AND ACCORDING TO HOOD, THE OLD LAWS WEREN'T BROKE. HE AND HIS FELLOW PROSECUTORS AROUND THE STATE OBJECTED TO THE NEW CASTLE DOCTRINE BILL, BUT IT PASSED WITH WIDE BI-PARTISAN SUPPORT IN THE STATE LEGISLATURE.



HOOD

It was perhaps testosterone-induced law-- to show "I'm strong on crime." When you get politicians out there passin' laws that affect generations of case law in the criminal law area there's a problem.

RATHER

Could any governor of Mississippi, Republican, Democrat or independent, veto such a law and expect to stay in office?

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HOOD

I don't think so. I think that that train was rolling when they termed it the Castle Doctrine, people already assumed, you know, that you ought be able to protect your castle. We all believe that in Mississippi. But it created a false impression, I suspect, in a lot of people's minds.

RATHER

Well, give me and give our audience some fundamental instruction in the law. When can you justify use of lethal force under the law?

HOOD

There has to be a reasonable belief of imminent danger. You have to have a fear that someone's gonna kill you or kill or do serious bodily injury to you or your family.

RATHER (VOICE OVER)

THE PROBLEM WITH THE CASTLE DOCTRINE LAW, ACCORDING TO HOOD, INVOLVES A PART OF THE LAW THAT SAYS PEOPLE WHO SHOOT INTRUDERS NO LONGER HAVE TO PROVE THAT THEY WERE FEARFUL -- THE LAW WILL NOW "PRESUME" DEADLY FORCE IS JUSTIFIED.

HOOD

Everyone believes yes, you oughta be able to protect your home if somebody's breakin' into your home and you're in fear they're gonna hurt you and your family, you should be able to defend yourself and kill 'em. But, the facts make all the difference in the world. What if it's an eight-year-old kid that doesn't have a gun or anything and is breaking in to visit with your 10-year-old little boy or something? You know, and you kill him? That's a different situation.

RATHER (VOICE OVER)

THIS NEW "PRESUMPTION" -- THAT DEADLY FORCE IS JUSTIFIED -- IS PRECISELY WHAT MANY PEOPLE WE TALKED TO IN JACKSON LIKE ABOUT THE CASTLE DOCTRINE LAW. THEY SAY IT'S A MUCH-NEEDED LEGAL PROTECTION. BUT ATTORNEY GENERAL HOOD FEARS IT COULD TURN INTO A GET-OUT-OF-JAIL-FREE CARD. ALREADY, HE SAYS, THE CASTLE DOCTRINE IS CREATING DANGEROUS MISCONCEPTIONS.

HOOD

What this law did, with all the hoopla around it, and the publicity, created an impression that if someone comes into your business and steals some item, and they're running out, they're not actually threatening you, then you can kill them. And, the problem is, one part of this law says something of that nature.

RATHER

Well, police chief and Sheriff Malcolm Macmillan says the public is confused, his officers are confused. In some ways, he admitted, he's confused about the whole thing. Why do you think there is such confusion?

HOOD

When I started parsing it the other day, and started seeing the -- the conflicts just within the bill itself. One section says you don't get the presumption unless they're actually breaking and entering. That's probably the intent of the law. But if you go up under Section E it says that if they're committing a felony on your business, which would be felony shoplifting, stealing something over \$500, you can kill him. Well, those two-- that conflicts within the law itself. If veteran prosecutors, lawyers, are having trouble understanding what this bill does and law enforcement are having trouble, then you certainly can understand that the citizenry-- don't understand what this is all about.

RATHER (VOICE-OVER)

HOOD SAYS THE IDEA OF TURING CITIZENS INTO LAW ENFORCEMENT IS A DANGEROUS MESSAGE AND REPRESENTS AN ILL-CONCEIVED ATTEMPT TO DO PUBLIC SAFETY ON THE CHEAP.

HOOD

That's our job in law enforcement. That's why governments were formed initially, you know. Education became vital, and other things, but when we built forts and set up governments, it was to protect the people.

RATHER

I've heard this argument in Jackson: the police are overwhelmed, all the more reason that we citizens should be empowered to the max to help enforce the law-- ourselves. And this Castle Doctrine Law moves us in that direction.

HOOD

Sure. I mean we're for citizens arming themselves. We fully support that. Protecting themselves in their homes, and in their property and in their business. But as far as shooting someone, it still boils down-- are they creating some threat to you? Most any grand jury or jury in Mississippi, if they've got a gun, and they're running towards you, and you shoot them--

RATHER

You walk?

HOOD

Right. You don't even get indicted. I don't want people to think that just because we passed some law called the Castle Doctrine, that you can go out and shoot someone.

RATHER

Do you or do you not think that the Castle Doctrine has shifted the line - between crime fighting and vigilantism?

MCMILLIN

Oh, yeah-- I mean, we have evidence of that already. I think this can lead to that.

RATHER

Vigilantism?

MCMILLIN

Right, I mean anarchy. I mean we're gonna shoot people for soapin' windows and spray-painting the sidewalk in front of your house. Rollin' your trees with toilet paper? That's the point I'm getting at. If it goes from shopliftin', you know, where will it end?

DAN RATHER (ON CAMERA)

CRITICS SAY IT'S ALREADY COME TO THIS. THEY POINT TO A NUMBER OF EXAMPLES: A MAN IN GRAND RAPIDS MICHIGAN WHO OPENED FIRE ON A GROUP OF TEENS TOILET PAPERING HIS YARD. HE WAS CHARGED WITH A MISDEMEANOR. ANOTHER MAN IN LAREDO, TEXAS WAS ACQUITTED AFTER FATALLY SHOOTING A 13-YEAR BOY IN THE BACK WHO'D STOLEN TWINKIES FROM HIS TRAILER. AND THE CASE IN LEXINGTON, KENTUCKY WHERE A GRAND JURY REFUSED TO INDICT A MAN WHO FIRED THROUGH HIS FRONT DOOR, KILLING AN INADVERTANT VISITOR WHOSE ALCOHOL-INDUCED FOG HAD DETOURED HIM TO THE WRONG ADDRESS. NOW WHAT DOES THE WOMAN WHO CREATED THE CASTLE DOCTRINE LAW SAY TO THE SKEPTICS? MORE OF OUR DISCUSSION WITH MARION HAMMER WHEN WE RETURN.

RATHER (ON CAMERA)

AS THE NEW CASTLE DOCTRINE LAWS SPREAD ACROSS THE COUNTRY, MORE AND MORE COMMUNITIES ARE HAVING TO SORT THROUGH THE GREY AREAS IN THE LAW. WHAT DO THESE NEW RIGHTS REALLY MEAN? ARE CIVILIANS BECOMING TOO EAGER TO TAKE THE LAW INTO THEIR OWN HANDS OR NOT? THE MOST RECENT STATE TO PASS THE CASTLE DOCTRINE IS OHIO, A VICTORY THAT ILLUSTRATES HOW POPULAR THE LAW HAS PROVED TO BE EVEN AMONG SOME OF THE NRA'S TRADITIONAL RIVALS. THE GOVERNOR OF THE BUCKEYE STATE WHO CHAMPIONED THIS EXPANSION OF GUN RIGHTS IS A DEMOCRAT. BUT ONLY SIX WEEKS AFTER THE OHIO LAW TOOK EFFECT, WARREN, OHIO, BECAME THE LATEST FRONTLINE IN THE CONFUSION OVER THE CASTLE DOCTRINE.

RATHER (VOICE-OVER)

THIS ALL-AMERICAN UNION TOWN AN HOUR OUTSIDE OF CLEVELAND IS LIKE MUCH OF THE RUST BELT. THE ECONOMY'S NOT WHAT IT USED TO BE. CRIME IS UP, THE POLICE ARE STRETCHED, THE PEOPLE HERE ARE ON EDGE, AND LOCAL AUTHORITIES SAY, QUICKER TO RESORT TO DEADLY FORCE. SATURDAY, OCTOBER 25 WAS HOMECOMING DAY AT THE HIGH SCHOOL. SEVENTEEN YEAR-OLD KYREE FLOWERS WAS GETTING READY FOR THE DANCE. ON THE WAY BACK FROM THE BARBER SHOP, HE AND HIS COUSIN MADE A FATEFUL STOP AT THE NEXT-DOOR NEIGHBOR'S HOUSE. WHAT HAPPENED NEXT IS IN DISPUTE, BUT KYREE'S COUSIN KICKED DOWN A CAMPAIGN YARD SIGN. SUDDENLY THE HOMEOWNER, APPEARED ON THE FRONT PORCH LEVELING A .22. AS THE BOYS WERE LEAVING, THE MAN OPENED FIRE. POLICE SAY TWO SHOTS SHATTERED THE SIDE WINDOWS OF THEIR SUV. A THIRD WENT THROUGH THE CAR FRAME AND INTO KYREE'S RIGHT ARM.

FLOWERS

That's a drastic reaction for somebody tearing up a political sign -- which is free.

RATHER (VOICE OVER)

QUINN FLOWERS IS KYREE'S FATHER. HE SAYS THE BOYS DIDN'T TELL HIM WHAT HAPPENED RIGHT AWAY BECAUSE THEY WERE NERVOUS ABOUT GETTING IN TROUBLE SO IT WAS ALMOST TWO HOURS BEFORE HE CALLED 911.

FLOWERS 911 CALL

We need a police car over here...Somebody got shot.

RATHER (VOICE OVER)

BUT IT WASN'T THE FIRST CALL POLICE HAD GOTTEN FROM DOVER STREET THAT DAY. THE MAN WITH THE GUN, 50-YEAR OLD KENNETH ROWLES, HAD ALREADY CALLED 911.

## ROWLES' 911 CALL

They said this is for Obama then he went for the sign and they ripped the sign out. I left it right where it was so, they drove off ...

RATHER (VOICE OVER)

ROWLES SAID NOTHING ABOUT A SHOOTING. AND THE OFFICER WHO RESPONDED TO THE CALL SAYS ROWLES DIDN'T WANT TO FILE A FORMAL COMPLAINT. BUT ACCORDING TO THE POLICE REPORT - ROWLES DID HAVE ONE QUESTION ABOUT THE "NEW LAW THAT OHIO PASSED ABOUT PROTECTING YOUR PROPERTY."

DONALD BISHOP, POLICE LIEUTENANT, WARREN TOWNSHIP, OH

He said that he wanted to know the specifics on it. We told him we didn't know all the specifics on it.

RATHER (VOICE OVER)

DONALD BISHOP IS A WARREN TOWNSHIP POLICE LIEUTENANT

BISHOP

He thought that was in effect that he would be safe in what he did. And he says that, ya know, have the right to protect my property and myself.

GREGORY HICKS, WARREN CITY ATTORNEY

Fortunately only hit him in the arm, and caused that damage. Could have killed him. Went through two windows. It could have killed two children.

RATHER (VOICE OVER)

GREGORY HICKS IS THE WARREN CITY ATTORNEY. HE SAYS IF ROWLES THOUGHT THE NEW CASTLE DOCTRINE WOULD PROTECT HIM, ROWLES IS WRONG.

HICKS

I believe in protecting one's property. I believe in the fact that your home is your castle. But I don't believe you have the right to use that kind of deadly force on a prank.

RATHER (VOICE OVER)

AFTER QUINN FLOWERS INFORMED POLICE ABOUT THE SHOOTING, THEY RETURNED TO ROWLES' HOUSE, CONFISCATED HIS WEAPONS AND ARRESTED HIM.

HICKS

They're retreating, and you fire at them? What more harm can they do? They're going. They're leaving. I'm sorry. That's not the way our - an ordered society acts.

RATHER (VOICE OVER)

ROWLES' INITIAL HEARING WAS HELD ON NOVEMBER 4<sup>th</sup>, ELECTION DAY.

JUDGE (COURT HEARING)

Kenneth Rowles on a charge of felonious assault. We're going to continue the bond that was set here and that bond includes a no contact order with Kyree Flowers and Patrick Wise and no weapons.

FLOWERS

I look at it like this was the best-case scenario to happen. We could've been goin' to a funeral – to two funerals today instead of goin' to court for a hearing.

RATHER (VOICE OVER)

ROWLES -- WHO IS NOW FACING THE POSSIBILITY OF UP TO 8 YEARS IN PRISON -- DECLINED AN INTERVIEW. HIS ATTORNEY, PHILLIP ARBIE, SAYS HIS CLIENT IS A DISABLED MAN WHO FIRED OUT OF FEAR.

PHILLIP ARBIE, ATTORNEY OF KEN ROWLES

He had a .22 and he made some warning shots. I don't know if they ricocheted or what but it was basically a warning issue and just the luck of the draw, these, these young men got struck. That's the long and the short of it. We think we have a pretty good case.

RATHER (VOICE OVER)

WHETHER OR NOT THEY HAVE A GOOD CASE REMAINS TO BE SEEN, BUT A GRAND JURY INDICTED ROWLES IN DECEMBER. THIS IS ONE PROSECUTION THAT MIGHT NOT RILE MARION HAMMER, THE FORMER PRESIDENT OF THE NRA WHO CONCEIVED THE MODEL CASTLE DOCTRINE LAW IN FLORIDA.

HAMMER

If you shoot somebody in the back and claim you were afraid for your life, how on earth are you gonna be able to convince somebody without compelling evidence, that you had a right to do that?

RATHER (VOICE OVER)

HAMMER SAYS SHE AGREES IN THEORY THAT DEADLY FORCE SHOULD BE USED TO PROTECT YOUR LIFE NOT YOUR PROPERTY. BUT SHE SAYS IN REALITY, THE DISTINCTION ISN'T ALWAYS SO CLEAR - ESPECIALLY WHEN SAY SOMEONE IS IN YOUR HOUSE IN THE MIDDLE OF THE NIGHT.

HAMMER

You don't have time to say, "Wait, Mr. Criminal, tell me. Are you here to steal my TV set or are you here to rape my wife and murder my children?" What's more important? The life of a criminal with a rap sheet a mile long, or a husband and wife and a couple of kids asleep in their own home not bothering anybody? This law respects the family.

RATHER (VOICE OVER)

HAMMER SAYS THAT CONTRARY TO THE DIRE PREDICTIONS OF CRITICS, THE CASTLE DOCTRINE LAW IS NOT A RESURRECTION OF THE OK CORRAL, BUT SIMPLY A RETURN TO TRADITIONAL RIGHTS OF SELF-DEFENSE.



HAMMER

Castle Doctrine restores the law to where everybody thought it really was. You could ask any individual. If someone breaks into your home, do you have a right to fight back? And people will say, "Absolutely." Well, they were absolutely wrong. When people start talking about vigilantism because you have restored a right that people have had since the 1400s, that's politics. Leave law-abiding people alone.

RATHER (VOICE OVER)

BUT THERE ARE MANY WHO SAY HAMMER'S CASTLE DOCTRINE DOESN'T RESTORE OLD RIGHTS, BUT CREATES NEW ONES.

JEANNIE SUK, PROFESSOR AT HARVARD LAW SCHOOL

Traditionally, in American law, we've had a real careful attitude towards self-defense. We've been very stingy about saying -- "Yeah, you were justified in killing someone in self defense."

RATHER (VOICE OVER)

JEANNIE SUK IS A PROFESSOR AT HARVARD LAW SCHOOL. SHE RECENTLY PUBLISHED THE FIRST SCHOLARLY ANALYSIS OF THE CASTLE DOCTRINE LAWS. SUK CONCLUDED THAT THE LEGAL TREND STARTED BY MARION HAMMER IN FLORIDA, MARKS A RADICAL SHIFT IN SELF-DEFENSE LAW FROM THE ORIGINAL CASTLE DOCTRINE, WHICH DATES BACK TO ENGLISH COMMON LAW.

SUK

If you were attacked, the traditional rule was that you had a duty to retreat before you actually killed. You had to try in some way- to try and run away before as a last resort killing someone in self-defense. In the home, however, the rule was different. If you were in your home, and someone was attacking you, you did not have to try to run away.

RATHER

Therefore, in your castle, so to speak.

SUK

In your castle. Exactly. A man's home is his castle. That was the traditional English-- maxim. And so English law had developed to have this idea that in the home, you did not have to try to flee if someone was trying to attack you there

.

RATHER (VOICE OVER)

ACCORDING TO SUK, THE TRADITIONAL CASTLE DOCTRINE REMAINED ESSENTIALLY UNCHANGED FROM MEDIEVAL TIMES UNTIL 2005. THAT'S WHEN THE NEW CASTLE DOCTRINE LAWS TOOK THE RIGHT TO USE DEADLY FORCE IN THE HOME -- AND EXPANDED IT TO INCLUDE CARS, BUSINESSES, AND IN SOME STATES, ANYWHERE A PERSON HAS A RIGHT TO BE.

SUK

We've seen an increasing cultural acceptance of guns. In a way that would have been unfathomable for much of our history.

RATHER

In your opinion does or does not this new Castle Doctrine set of laws mark a big change in the law?

SUK

Well, I think there are definitely arguments on both sides. I can imagine when that when these laws were being debated people said, let's pass this law because it makes people feel good. Because it makes them feel like they're secure in their homes and they will never have to give into criminals. But the thing is that there is an important change in this law. Even the traditional castle doctrine, which was very protective of people in their homes, and allowed them to shoot in their home without retreating, it still meant that you had to be reasonably afraid of death or serious bodily harm. This was a very important requirement. You don't just let people kill in self-defense and say, oh, you were afraid of being attacked. You actually have to show that your fear was reasonable

RATHER

That's the way it was before the castle laws.

SUK

That's the way it was. And now, in these laws, you don't have to do that. Because you don't have to prove that in court. But more importantly, even before the trial stage, what happens is that police officers and prosecutors, it affects their decisions about whether to bring cases, whether to make arrests or to bring a prosecution. I think it's a very big deal. I think it's a really important change in the law.

RATHER

What are the chances that these new castle laws will at least be seen as giving individual citizens something akin to the right of a police officer when it comes to a gun?

SUK

It may be that the --that the ordinary citizen, in his home, has a greater right to shoot in self-defense, to kill in self-defense than just an ordinary police officer.

RATHER

Well do or do you not think some of it is people losing faith in law enforcement?

SUK

When you listen to what people say about these laws, that they're connected to an idea that if I had to rely on the police, I would be killed, right? There does seem to be an idea of loss of faith in law enforcement. But I can't explain why that would be, at this point in time, given that we've seen a very, very steady and meaningful decline in violent crime.

RATHER

In your judgment, what does this wave of, quote, "castle doctrine laws," tell us about American culture?

SUK

I have wondered, myself, why suddenly, in 2005, do we see this frenzy of activity in the self-defense area? And all of these laws being passed state by state very rapidly, why at this time? If you look at the rhetoric of the NRA, and people who have been supportive of these laws, the connection between national security and security in your home has been made. Explicitly.

RATHER

Are you or are you not suggesting that there's a line running from 9/11?

SUK

You can't say directly, because of 9/11, we had these laws. But, in terms of the common cultural moment, right, I think you can see a connection. And you can see in the way that people talk about and reason about these Castle Doctrine laws there's something at stake that is beyond just being able to protect yourself and your home. That there's something at stake that has to do with the national consciousness about insecurity from attack.

RATHER

And being vulnerable.

SUK

And being vulnerable in your home. And feeling like that's just not what we can accept. We need to be able to do something to say, "We're not vulnerable."

RATHER (ON CAMERA)

THESE ARE VULNERABLE TIMES. THE ECONOMY, TWO WARS, AND A LONG LIST OF OTHER NATIONAL AND GLOBAL CHALLENGES CONTRIBUTE TO A SENSE OF UNEASE. IT HAS LONG BEEN A PART OF THE AMERICAN SPIRIT, SINCE THE DAYS OF THE FRONTIER, TO DIG DEEP, AS INDIVIDUALS -- TO TAKE A PERSONAL RESPONSIBILITY TO MAKE THINGS BETTER. THAT IDEAL UNDOUBTEDLY COURSES THROUGH THE NEW CASTLE DOCTRINE LAWS. BUT THROUGH THE CENTURIES, AS OUR NATION BECAME MORE SETTLED, AND EVER SEEKING TO BECOME MORE CIVILIZED, IT WAS THE POLICE WHO WERE GIVEN THE RESPONSIBILITY FOR KEEPING THE CITIZENRY SAFE. WHERE DOES THIS NEW BREED OF LAW FALL ON THIS CONTINUUM? ULTIMATELY THAT'S FOR OUR LAWMAKERS AND COURTS TO SORT OUT. BUT IN THE MEANTIME, THE ONGOING DEBATE ABOUT THE CASTLE DOCTRINE IS A BAROMETER OF OUR NATIONAL MOOD. AND THAT'S OUR PROGRAM FOR TONIGHT. FOR HDNET, FROM NEW YORK, DAN RATHER REPORTING. GOOD NIGHT.